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EXTRAORDINARY

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PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 14th December, 1994:—

BILL No. LXXXVII OF 1994

A Bill to provide for the regulation of private security guards and agencies.

BE it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Private Security Guards and Agencies (Regulation) Act, 1994.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force in a State on such date as the State Government may, by notification, appoint; and different dates may be appointed for different provisions thereof and any reference in any provision to the commencement of this Act shall in relation to any State be construed as a reference to the commencement of that provision in that State.

2. In this Act, unless the context otherwise requires,—

(a) “Controlling Authority” means a Controlling Authority appointed under sub-section (1) of section 3;

(b) “licence” means a licence granted under sub-section (3) of section 7;

(c) “notification” means a notification published in the Official Gazette;

Short
title,
extent
and
com-
mence-
ment.

Defini-
tions.

(d) "prescribed" means prescribed by rules made under this Act;

(e) "private security" means private security of a person or his property or both;

(f) "private security guard" means a person providing private security to another person;

(g) "private security guard" means a person providing private security to another person.

Appoint-
ment of
Con-
trolling
Autho-
rity.

3. (1) The State Government may, by notification, appoint any officer, not below the rank of an Inspector-General of Police or a Commissioner of Police, to be the Controlling Authority for such area as may be specified in that notification, for the purposes of this Act.

(2) The State Government may, for efficient discharge of functions by a Controlling Authority, provide it with such other officers and staff as that Government considers necessary.

Persons
not to
engage or
provide
private
security
guard
without
licence.

4. No person shall—

(a) continue to engage or engage himself as a private security guard;

(b) carry on or commence the business of private security agency, unless he holds the licence issued in this behalf by the Controlling Authority:

Provided that the person engaged as private security guard or carrying on the business of private security agency, immediately before the commencement of this Act, may continue to do so for a period of three months from the date of such commencement and if he has made an application for such licence within the said period of three months, till the disposal of such application.

Eligibi-
lity to
be a
private
security
guard.

5. A person shall not engage himself as, and a private security agency shall not provide, a private security guard unless that guard—

(i) is a citizen of India;

(ii) has completed eighteen years of age;

(iii) has not been convicted and sentenced to imprisonment for two years or more;

(iv) has completed the minimum period of one month's training of the type imparted to Home Guards;

(v) fulfils such physical standards as may be prescribed.

Private
security
agency to
employ
persons
having
expe-
rience of
Army,
etc.

6. Every private security agency shall, within thirty days from the date of obtaining the licence, employ such number of supervisors, as may be prescribed from amongst the persons having served for a minimum period of five years in one or more of the following, namely:—

(i) Army;

(ii) Navy;

(iii) Air Force;

- (iv) any other Armed Force of the Union;
- (v) Police;
- (vi) Home Guard.

7. (1) An application for grant of licence to a private security guard or a private security agency, as the case may be, shall be made to the Controlling Authority in such form as may be prescribed. Grant of licence.

(2) Every application under sub-section (1) shall be accompanied by such fee as may be prescribed:

Provided that such fee for—

(i) private security agency shall not be less than one thousand rupees and more than two thousand rupees;

(ii) private security guard shall not be less than twenty-five rupees and more than fifty rupees.

(3) On receipt of an application under sub-section (1), the Controlling Authority may, after making such inquiries as it considers necessary and by order in writing, either grant a licence or refuse to grant the same:

Provided that no order of refusal shall be made except after giving the applicant a reasonable opportunity of being heard.

(4) A licence granted under this section—

(a) shall be valid for a period of five years unless the same is cancelled under sub-section (1) of section 11;

(b) may be renewed from time to time, for a like period; and

(c) shall be in such form, and subject to such conditions as may be prescribed.

8. A company, firm or an association of persons not registered in India, shall not be eligible for licence under this Act unless it obtains prior permission of the Central Government.

Prior permission of Central Government in certain cases.

9. (1) An application for renewal of licence shall be made to the Controlling Authority, not less than forty-five days before the day of expiry of the period of Validity thereof, in such form as may be prescribed and shall be accompanied by the fee specified in sub-section (2) of section 7.

Renewal of licence.

(2) On receipt of an application under sub-section (1), the Controlling Authority may, after making such inquiries as he considers necessary and by order in writing, renew the licence or refuse to renew the same:

Provided that no order of refusal shall be made except after giving the applicant a reasonable opportunity of being heard.

10. Every private security agency shall exhibit its licence or copy thereof in a conspicuous place of his business.

Licence to be exhibited.

Cancellation and Suspension of Licence.

11. (1) The Controlling Authority may cancel any licence on any one or more of the following grounds, namely:—

(a) that the licence holder has incurred any of the disqualifications specified in section 5;

(b) that the licence has been obtained on misrepresentation or suppression of material facts;

(c) that the licence holder has used false documents or photographs;

(d) that the licence holder has violated the provisions of this Act or the rules made thereunder or any of the conditions of the licence;

(e) that the licence holder has misused information obtained by him during the discharge of his duties to the client;

(f) that the licence holder using any letter-head, advertisement or any other printed matter or in any other manner represented that the licensee is an instrumentality of the Government or using a name different from that for which licence has been granted;

(g) that the licence holder impersonating or permitting or aiding or abetting any body to impersonate a public servant;

(h) that the licence holder wilfully failing or refusing to render to his client services agreed to between the parties and for which fees have been paid or tendered in accordance with the agreement with the client;

(i) that a private security guard has committed assault, battery, kidnapping or used force for violence on any person;

(j) that the licence holder has done any act which is in violation of a court order or order of any lawful authority or advising, encouraging or assisting any person for violation of any such order;

(k) that the licence holder has violated the Minimum Wages Act, 1948, the Payment of Wages Act, 1936, the Equal Remuneration Act, 1976, the Payment of Bonus Act, 1965, the Payment of Gratuity Act, 1972, the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, the Contract Labour (Regulation and Abolition) Act, 1970, the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 and the Industrial Disputes Act, 1947.

11 of 1948.
4 of 1936.
25 of 1976.
21 of 1965.
39 of 1972.
19 of 1952.
37 of 1970.
30 of 1979.
14 of 1947.

(2) Where the Controlling Authority, for reasons to be recorded in writing, is satisfied that pending the question of cancelling of licence on any of the grounds mentioned in sub-section (1) above, it is necessary to do so, that Controlling Authority may, by order in writing, suspend the operation of the licence for such period not exceeding thirty days as may be specified in the order and require the licence holder to show cause, within fifteen days from the date of issue of such order, as to why the suspension of the licence should not be extended till the determination of the question of cancellation.

(3) Every order of suspending or cancelling of a licence shall be in writing and shall specify the reasons for such suspension or cancellation and a copy thereof shall be communicated to the person affected.

(4) No order of cancellation of licence under sub-section (1) shall be made unless the person concerned has been given a reasonable opportunity of being heard.

12. (1) Any person aggrieved by an order of the Controlling Authority refusing the licence under sub-section (3) of section 7 or renewal under sub-section (2) of section 9 or order of suspension of licence under sub-section (2) of section 11 or cancellation of licence under sub-section (1) of that section, may prefer an appeal against that order to the State Government within a period of sixty days of the date of such order:

Appeals.

Provided that an appeal may be admitted after the expiry of sixty days if the appellant satisfies the State Government that he has sufficient cause for not preferring the appeal within that period.

(2) Every appeal under sub-section (1) shall be made in such form as may be prescribed and shall be accompanied by a copy of the order appealed against.

(3) Before disposing of an appeal the State Government shall give the appellant a reasonable opportunity of being heard.

13 (1) Every private security agency shall maintain a register containing the names, addresses and salaries of the private security guards under its control and the names and addresses of the persons to whom it had provided private security guards and such other particulars as may be prescribed.

Register to be maintained by a private security agency.

(2) Every private security agency and private security guard shall furnish to the Controlling Authority such returns at such times as may be specified by it.

(3) To ensure due compliance of the Act, the Controlling Authority may call for such information as it considers necessary from any private security agency or private security guard.

14. The Controlling Authority may, at any reasonable time, enter the premises of the private security agency and inspect and examine the place of business, the records, accounts and other documents connected with the licence and may take copy of any document.

Inspection of licence, etc.

15. (1) Every private security guard shall be issued an identity card,—

Issue of identity card.

(a) in the case of private security guards provided by a private security agency, by that agency,

(b) in any other case, by the Controlling Authority.

(2) The identity card under sub-section (1) shall be issued in such form as may be prescribed.

(3) Every private security guard shall carry on his person the identity card issued under sub-section (1) and shall produce it on demand for inspection by the Controlling Authority or any officer authorised by it in this behalf.

Delegation of powers.

16. The State Government may, by notification, direct that any power or function—

(a) which may be exercised or performed by it,

(b) which may be exercised or performed by the Controlling Authority,

under this Act may, in relation to such matter and subject to such conditions, if any, as may be specified in the notification, be also exercised or performed by such officer or authority subordinate to the Government or officer subordinate to the Controlling Authority, as may be specified in such notification.

Punishment for the contravention of section 4.

17. Any person who contravenes the provisions of section 4 shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both.

Penalty for unauthorized use of certain uniforms.

18. If any private security guard wears the uniform of the Army, Air Force, Navy or any other Armed Force of the Union or police or any dress having the appearance or bearing any of the distinctive marks of that uniform, he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both.

Offences by companies.

19. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

20. (1) The State Government may, by notification, make rules for carrying out the provisions of this Act.

Power of
State
Govern-
ment to
make
rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the physical standard under clause (v) of section 5;
- (b) number of supervisors to be employed under section 6;
- (c) the form of an application for grant of licence under sub-section (1) of section 7;
- (d) fee to be levied under sub-section (2) of section 7;
- (e) the form in which the licence to be granted under clause (c) of sub-section (4) of section 7 and conditions subject to which such licence be granted;
- (f) the form of an application for renewal of licence under sub-section (1) of section 9;
- (g) the form under sub-section (2) of section 12 for preferring an appeal;
- (h) other particulars to be given in a register under sub-section (1) of section 13;
- (i) the form in which an identity card under sub-section (2) of section 15 be issued;
- (j) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

STATEMENT OF OBJECTS AND REASONS

Due to the increase in the number of business establishments, growth in crime rate and increasing demands for surveillance, there has been a proliferation of private security agencies in the recent years. Though these private security agencies have served the needs of the business establishments like providing security for property, etc., there has also been a growing concern about the manner of functioning of these agencies, many of which conduct their operations without consideration for law or scruples. Recently a private multi-national security agency has set up operations in the country and it is likely that other multi-nationals may also follow the suit. Unless suitable safeguards are devised, these developments are likely to have wide ranging security implications which may not be to our interest. There is also a danger of the employees of the private security agencies encroaching upon the duties of the police like wearing uniforms, resembling the police uniforms and also using weapons in contravention of law. Apart from security agencies which hire security guards mainly for providing protection for industrial units and other institutions, there are private senas in some States where individuals hire guards for their personal protection. These private senas are known to take law unto themselves. A number of associations for the promotion of security agencies like the Security Association of India and Association and Security Organisation (India) exist. However, these associations have not been able to set or enforce proper norms for their functioning nor they are able to ensure that security agencies of dubious reputation do not proliferate.

2. In view of the above, it is proposed to regulate the private security agencies by providing for a Controlling Authority to be appointed by the State Governments for the purpose of granting licences and also to make holding of licences mandatory for the carrying on of business of security agencies and other related matters.

3. The Bill seeks to achieve the above objects.

S. B. CHAVAN.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 20 of the Bill empowers the State Government to make rules for the purpose of carrying out the provisions of this Act. They, *inter alia*, relate to the physical standard of the private security guards, the number of trained persons to be employed by the private security agencies, the form of application and the fee to be deposited with such application for grant of licence, the form of licence, the form of the register, the form in which an identity card is to be issued and the form of appeal. Every rule made by the State Government under the said clause is required to be laid before the House or Houses of the State Legislature

2. The matters in respect of which rules may be made relate to matters of administrative detail or matters in respect of which it is not practicable to make detailed provisions in the Bill itself. The delegation of legislative power is, thus, of a normal character

V. S. RAMA DEVI
Secretary-General

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